

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

K.C. HOPPS, LTD.,

Plaintiff,

v.

THE CINCINNATI INSURANCE COMPANY,
INC.,

Defendant.

Case No. 4:20-cv-00437-SRB

JOINT MOTION TO MODIFY SCHEDULING AND TRIAL ORDER

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Rule 16.3, Plaintiff K.C. Hopps, Ltd. (“Plaintiff”) and Defendant The Cincinnati Insurance Company, Inc. (“Defendant”) jointly move the Court for an order modifying the expert designation deadlines, discovery deadline, and dispositive and *Daubert* motion deadlines set forth the Court’s Scheduling and Trial Order for Jury Trial (Dkt. 39). In support of their joint motion, the parties state as follows:

1. Plaintiff filed its Complaint initiating this action against Defendant on June 4, 2020 (Dkt. 1), and Defendant was served on June 16, 2020 (*see* Dkt. 4).
2. Defendant filed its Motion to Dismiss the Complaint, and suggestions in support thereof on June 22, 2020 (Dkts. 8, 9).
3. On August 12, 2020, the Court entered its Order denying Defendant’s Motion to Dismiss (Dkt. 29), and Defendant thereafter filed its Answer and Defenses to Plaintiff’s Complaint on August 26, 2020 (Dkt. 33).
4. The parties submitted their Report of the Parties’ Fed. R. Civ. P. 26(f) Conference and Joint Proposed Scheduling Order/Discovery Plan on August 20, 2020 (Dkt. 30).

5. On October 13, 2020, the Court held a scheduling conference with the parties and thereafter entered its Scheduling and Trial Order for Jury Trial (the “Scheduling Order”) (Dkts. 38, 39).

6. The current Scheduling Order establishes the following deadlines for expert witness designations, close of pretrial discovery, and dispositive and *Daubert* motions:

Plaintiff’s Trial Expert Disclosures:	March 8, 2021
Defendant’s Trial Expert Disclosures:	March 29, 2021
Rebuttal Witness Disclosures:	April 19, 2021
Completion of Pretrial Discovery:	May 3, 2021
Dispositive and <i>Daubert</i> Motions:	May 20, 2021

7. The parties have been actively and diligently pursuing discovery and have cooperated throughout the discovery process.

8. Despite the parties’ diligence and cooperation, however, due to recent, unforeseen medical issues involving Plaintiff’s personnel and Plaintiff’s counsel, Plaintiff requires additional time to make its trial expert disclosures.

9. To accommodate the additional time Plaintiff requires, the parties have agreed and jointly move to modify the Scheduling Order to extend the above referenced deadlines by three weeks as follows:

Deadline:	From:	To:
Plaintiff’s Trial Expert Disclosures	March 8, 2021	March 29, 2021
Defendant’s Trial Expert Disclosures	March 29, 2021	April 19, 2021
Rebuttal Expert Disclosures	April 19, 2021	May 10, 2021
Completion of Pretrial Discovery	May 3, 2021	May 24, 2021
Dispositive and <i>Daubert</i> Motions	May 20, 2021	June 10, 2021

10. The requested modification is the first such request by either of the parties and will not impact any other deadlines set forth in the Scheduling Order.

11. Good cause exists to modify the Scheduling Order in the above particulars in that this motion is necessitated by unavoidable medical exigencies and is not brought for the purposes of hinderance or delay, or for any other improper purpose.

WHEREFORE, for the above and foregoing reasons, Plaintiff K.C. Hopps, Ltd., and Defendant The Cincinnati Insurance Company, Inc., respectfully pray that the Court enter its Order modifying the Court's Scheduling and Trial Order for Jury Trial as set forth in paragraph 9 above, and for such other and further relief the Court deems just and proper.

Date: March 5, 2021.

MILLER SCHIRGER LLC

/s/ John J. Schirger

John J. Schirger, MO # 60583
Matthew W. Lytle, MO #59145
Joseph M. Feierabend, MO #62563
4520 Main Street, Suite 1570
Kansas City, MO 64111
Telephone: (816) 561-6500
Facsimile: (816) 561-6501
Email: jschirger@millerschirger.com
Email: mlytle@millerschirger.com
Email: jfeierabend@millerschirger.com

STUEVE SIEGEL HANSON LLP

Patrick J. Stueve, MO #37682
Bradley T. Wilders, MO #60444
Curtis Shank, MO #66221
460 Nichols Road, Suite 200
Kansas City, Missouri 64112
Telephone: 816-714-7100
Facsimile: 816-714-7101
Email: stueve@stuevesiegel.com
Email: wilders@stuevesiegel.com
Email: shank@stuevesiegel.com

WALLACE SAUNDERS, P.C.

/s/Michael L. Brown

Michael L. Brown MO 55732
Kelvin J. Fisher MO 56573
10111 West 87th Street
Overland Park, KS 66212
(913) 888-1000 FAX - (913) 888-1065
mbrown@wallacesaunders.com
kfisher@wallacesaunders.com

LITCHFIELD CAVO LLP

Daniel G. Litchfield *PHV*
303 West Madison, Suite 300
Chicago, IL 60606
(312) 781-6669
litchfield@litchfieldcavo.com

Ericka Hammett *PHV*
250 E. Wisconsin Ave., Suite 800
Milwaukee, WI 53202
(414) 488-1835 FAX 414-875-3331
hammett@litchfieldcavo.com

ATTORNEYS FOR DEFENDANT

LANGDON & EMISON LLC

J. Kent Emison, MO #29721
911 Main Street
PO Box 220
Lexington, Missouri 64067
Telephone: (660) 259-6175
Facsimile: (660) 259-4571
Email: kent@lelaw.com

SHAFFER LOMBARDO SHURIN, P.C.

Richard F. Lombardo, MO# 29748
2001 Wyandotte Street
Kansas City, MO 64108
Telephone: 816-931-0500
Facsimile: 816-931-5775
Email: rlombardo@sls-law.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5th day of March 2021, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will cause a true and correct copy of the same to be served on all ECF-registered counsel of record.

s/ John J. Schirger
Attorney for Plaintiff